

# Ely District Record of Decision and Approved Resource Management Plan



**August 2008**

## **COOPERATING AGENCIES:**

Great Basin National Park  
Humboldt-Toiyabe National Forest  
Nellis Air Force Base  
Nevada Department of Transportation  
Nevada Division of Minerals  
Nevada Department of Wildlife  
Nevada State Historic Preservation Office

Lincoln County  
Nye County  
White Pine County  
Duckwater Shoshone Tribe  
Ely Shoshone Tribe  
Moapa Band of Paiutes  
Yomba Shoshone Tribe



***BLM Mission Statement***

***It is the mission of the Bureau of Land Management to sustain the health, diversity, and productivity of the public lands for the use and enjoyment of present and future generations.***

BLM/NV/EL/PL-GI08/25+1793



# United States Department of the Interior

## BUREAU OF LAND MANAGEMENT

Ely District Office  
HC33 Box 33500 (702 N. Industrial Way)  
Ely, Nevada 89301-9408  
[http://www.blm.gov/nv/st/en/fo/ely\\_field\\_office.html](http://www.blm.gov/nv/st/en/fo/ely_field_office.html)



In reply refer to:  
1617 (040)

**AUG 20 2008**

Dear Interested Party:

The Ely Approved Resource Management Plan (RMP) integrates all resource management activities for the Ely District Office into a single, unified land use plan that will replace three existing land use plans and related amendments addressing the management of approximately 11.5 million acres of public lands and minerals in White Pine, Lincoln, and portions of Nye counties, in eastern Nevada. In accordance with the Federal Land Policy and Management Act and the National Environmental Policy Act (NEPA), the Bureau of Land Management (BLM) has prepared the attached Record of Decision (ROD) for the Ely RMP and for the Ely District Proposed RMP/Final Environmental Impact Statement (EIS).

The ROD was prepared in accordance with Council on Environmental Quality Regulations as published in the Code of Federal Regulations (40 CFR 1505.2), which requires a concise document linking the final decision to the analysis presented in the Proposed RMP/Final EIS. Based upon comments received during the protest period, some minor editorial modification have been made in preparing the Approved RMP. These modifications provide further clarification of some of the decisions/maps.

A 30-day protest period was provided on the land use plan decisions contained in the Proposed RMP/Final EIS in accordance with 43 CFR Part 1610.5-2. Six protest letters were received from five protesting parties; two of the protesting parties were determined to have standing as defined in the BLM Land Use Planning Handbook. After careful consideration of all points raised in those protests, the BLM Director concluded that the responsible planning team and decision-makers followed all applicable laws, regulations, policies, and pertinent resource considerations in developing the plan. All protesting parties received a response addressing their concerns from the BLM Director.

Three letters received were determined to not have standing under the regulations at 43 CFR 1610.5-1. One letter received identified a mapping error and potentially unnecessary management direction for the Hendry's Creek/Rock Animal Corral Area of Critical Environmental Concern (ACEC) that caused the BLM to reconsider its proposed management. Based upon that review, BLM has determined that the area does not require special management as an ACEC to protect its relevant and important values. Protection can be achieved by maintaining the current designation as the Rock Animal Corral archaeological site with restrictions on fluid and solid mineral leasing, locatable minerals, and mineral materials sales on the 160-acre site.

The BLM provided the Governor of Nevada with a 60-day Governor's Consistency Review as provided by the regulations. No specific inconsistencies with state or local plans, policies, or programs were noted from the review.

In accordance with Section 7 of the Endangered Species Act, the U.S. Fish and Wildlife Service (USFWS) issued a programmatic Biological Opinion. The USFWS Biological Opinion has been included as an appendix to the ROD/Approved RMP.

The attached ROD serves as the final decision for the land use management decisions described in the attached Approved RMP, and these planning decisions become effective on the date the ROD is signed by the State Director. No further administrative remedies are available at this time for these land use plan decisions. Please note that some of these planning decisions will require the preparation of detailed, project-level NEPA analysis prior to on-the-ground implementation. Future public involvement opportunities (appeal opportunities) will be provided at that time.

One decision has been addressed to a sufficient level of detail in the Proposed RMP/Final EIS process to be implemented, over time, without further NEPA analysis. This is considered to be a new "implementation decision" (see page 3 of the ROD), and will be implemented as funding and staff are available. A separate appeal opportunity for this selected decision is being provided at this time. The appeal period will close 30 days from the date the Notice of Availability of the ROD/Approved RMP appears in the *Federal Register*. This date also will be announced via local news release, and/or individual mailings. Please review the ROD carefully for a more detailed discussion of the appeal process.

Additional hard copies of related planning documents, including the ROD/Approved RMP may be obtained at the address above. Electronic copies of the documents also may be obtained via the internet at [http://www.blm.gov/nv/st/en/fo/ely\\_field\\_office.html](http://www.blm.gov/nv/st/en/fo/ely_field_office.html).

We appreciate your help in this planning effort and look forward to your continued participation as the Approved RMP is implemented. For additional information or clarification regarding the attached document or the planning process, please contact Jeff Weeks at (775) 289-1800 or email at [Jeff\\_Weeks@nv.blm.gov](mailto:Jeff_Weeks@nv.blm.gov).

Sincerely,



John Ruhs  
District Manager  
Ely District Office

**ELY DISTRICT RECORD OF DECISION**

**AUGUST 2008**

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## INTRODUCTION

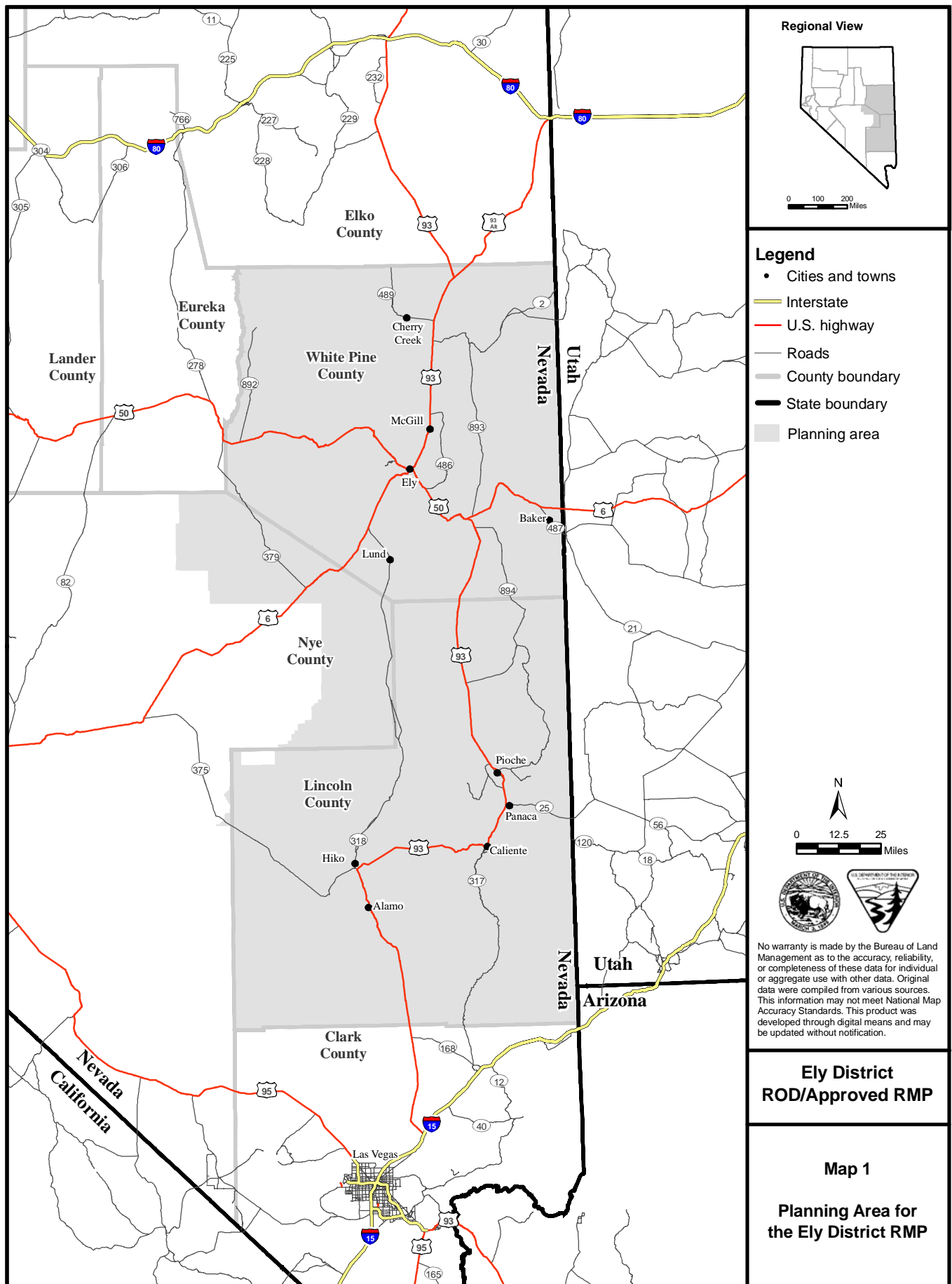
This Record of Decision (ROD) approves the attached Resource Management Plan (RMP) to manage the public lands administered by the Bureau of Land Management's (BLM's) Ely District Office. The Ely District Approved RMP is based on that described as the Proposed RMP in the November 2007 Ely Proposed RMP/Final Environmental Impact Statement (EIS) (U.S. Department of the Interior [USDI]-BLM 2007) with exceptions as noted in this ROD. The background and rationale for approving the proposed decisions contained in the Proposed RMP, as well as clarifications and modifications made to address protests to the Proposed RMP are described in this ROD. The attached Approved RMP constitutes the final decisions.

The planning area for the Ely RMP consists of the geographic area within which the decisions contained in the Approved RMP would apply (**Map 1**). The planning area includes all lands regardless of jurisdiction; however, the approved RMP decisions only apply to public lands administered by the Ely District Office in Lincoln, White Pine, and a portion of Nye counties in east-central Nevada. The decision area also includes those private lands on which there is "split estate," and BLM continues to manage surface or subsurface interests. The planning area measures approximately 230 miles (north-south) by 115 miles (east-west). The decision area is managed as a single administrative unit. **Table 1** summarizes the land administration/ownership in the planning area.

**Table 1**  
**Planning Area Land Administration/Ownership Status**

Administration/Ownership	Acres
U.S. Department of the Interior	
Bureau of Land Management	11,463,419
National Park Service	77,128
Bureau of Indian Affairs	73,555
Fish and Wildlife Service	282,995
U.S. Department of Agriculture	
Forest Service	825,136
U.S. Department of Defense	778,010
State of Nevada	34,131
Private	392,978
Total	13,927,352





## **DECISION**

The decision is hereby made to approve the attached RMP for the Ely District BLM. This plan was prepared under the regulations implementing the Federal Land Policy and Management Act of 1976 (43 Code of Federal Regulations Part 1600). An EIS was prepared for this RMP in compliance with the National Environmental Policy Act (NEPA) of 1969. The Approved RMP is based upon that described in the Ely District Proposed RMP/Final EIS published in November 2007. Specific management decisions for public lands and minerals under the jurisdiction of the Ely District are presented in the section titled "Resource Management Plan." This ROD serves as the final decision for the land use plan decisions described in the Approved Plan and becomes effective on the date this ROD is signed. No further administrative remedies are available at this time for these land use plan decisions.

### **Appeal Procedures for Implementation Decisions**

The decision identifying designated routes of travel for motorized vehicles in Duck Creek Basin (Management Action TM-3) is an implementation decision and appealable to the Interior Board of Land Appeals under 43 Code of Federal Regulations Part 4, upon approval of this ROD. This decision is contained in the Travel Management section of the Approved RMP. Any party adversely affected by the BLM's decision(s) to identify, evaluate, define, delineate, and/or select specific routes as available for motorized use within designated areas of travel as set forth in the Ely RMP may appeal within 30 days of publication of the Notice of Availability, in accordance with the U.S. Department of the Interior's appeal regulations (43 Code of Federal Regulations Part 4). The appeal should state the specific route(s) by section, township, and range on which the decision is being appealed, and be submitted to the Ely District Manager at the following address:

Bureau of Land Management  
Ely District Office  
HC 33 Box 35500  
Ely, Nevada 89301-9408

The appeal may include a statement of reasons at the time the notice of appeal is filed, or the statement of reasons may be filed within 30 days of filing the appeal. A copy of the notice of appeal, statement of reasons, and all supporting documentation also must be sent to the following address:

Regional Solicitor, Pacific Southwest Region  
U.S. Department of the Interior  
2800 Cottage Way  
Room E-2753  
Sacramento, CA 95825-1890

If a statement of reasons is filed separately from the notice of appeal, it also must be sent to the following location within 30 days after the notice of appeal was filed:

Board of Land Appeals  
Office of Hearings and Appeals  
4015 Wilson Boulevard  
Arlington, VA 22203

### **PROPOSED PLAN AND ALTERNATIVES**

Five alternatives, including a no action alternative, were analyzed in detail in the Proposed RMP/Final EIS. Alternatives were developed to include different combinations of management direction to address issues and resolve conflicts among resources and resource uses. In addition to addressing issues, alternatives must meet the purpose and need stated for the RMP, must not be remote or speculative, and must be technically and economically practical or feasible. Each alternative was a complete land use plan that provided a framework for multiple use management of the full spectrum of resources, resource uses, and resource programs within the planning area. Under all alternatives except Alternative D, the Ely District Office would manage the public lands in accordance with all applicable laws, regulations, and BLM policy and guidance, and to meet the Resource Advisory Council standards for rangeland health. As noted in the discussion below, Alternative D was not consistent with all existing laws, regulations, and policies.

#### **Alternatives Analyzed in Detail**

The **Proposed RMP** was initially presented as Alternative E (the Preferred Alternative) in the Draft RMP/EIS (July 2005) (BLM 2005). The Proposed RMP provides a framework for vegetation management on the basis of currently available scientific knowledge to modify vegetation communities in a manner to enhance ecological health and resilience. The Proposed RMP balances the need to restore, enhance, and protect resources, with the public's desire to provide for the production of food, fiber, minerals, and services on public lands. This would be accomplished within the limits of an ecological system's ability to sustainably provide these products and services within the constraints of various laws and regulations.

**Alternative A** is the continuation of existing management in the decision area and comprises the "No Action Alternative." This alternative continues present management based on existing land use plans and other decision documents. Direction contained in existing laws, regulation, and policy also continued to be implemented. Under Alternative A, resources, resource uses, and sensitive habitats receive management emphasis (methods and mix of multiple use management of public land) at present levels. In general, most activities would be analyzed on a case-by-case basis, and few uses would be limited or excluded as long as land health standards could be met.

**Alternative B** emphasizes the maintenance of functioning and healthy ecological systems and the restoration of ecological systems and their historic mosaic patterns that have been degraded or altered. Commodity production is constrained to protect resources and systems displaying healthy ecological processes or to accelerate improvement in those areas that did not. Production of food, fiber, minerals, and

services are more constrained than in the other alternatives, and in some cases and some areas, uses are excluded to protect sensitive resources.

**Alternative C** emphasizes commodity production and production of food, fiber, minerals, and services, including provisions for several types of recreation. Under this alternative, constraints on commodity production for the protection of sensitive resources are the least restrictive possible within the limits defined by law, regulation, and BLM policy, including the Endangered Species Act, cultural resource protection laws, and wetland preservation. In this alternative, constraints to protect sensitive resources would be implemented in specified geographic areas rather than across the entire Ely RMP planning area.

**Alternative D** excludes all permitted, discretionary uses of the public lands including livestock grazing, mineral sale or leasing, lands and realty actions (such as disposals, leases, and rights-of-way), recreation uses requiring permits, etc. Some components of Alternative D could be implemented through the discretionary authority of the Ely District Manager or the Nevada State Director, while others would require action by the Secretary of the Interior or new legislation by Congress. This alternative was included in the Proposed RMP/Final EIS in response to scoping comments for the RMP, which requested the elimination of certain uses of the public lands in the RMP planning area. It set a baseline for the comparison of impacts from management actions included in other alternatives and allowed for the analysis of a range of management actions in the EIS. This alternative allows no commodity production and includes management actions necessary to maintain or enhance resources and protect life and property.

### **Environmentally Preferable Alternative**

The Proposed RMP, as the agency Preferred Alternative and Proposed Action, is considered the environmentally preferable alternative based on a balance between the human (social and economic) environment as well as addressing the need to restore, enhance, and protect the natural environment.

## **MANAGEMENT CONSIDERATIONS**

### **Rationale for the Decision**

The decision to approve the Proposed Plan takes in account statutory, regulatory, and national policy considerations. The decision also was based on review and comment of public, industry, federal, tribal, state and local governments and agencies, as well as the 14 cooperating agencies that participated in the planning process. BLM has determined that the Proposed Plan (as modified in consideration of public and agency comments and public protest) is the most consistent with its legal mandates while incorporating the best management practices identified through agency and public consultation. Through the review process, all practicable methods to reduce environmental harm were incorporated into the Approved Plan. The Approved Plan best addresses the diverse needs within the Planning Area within a comprehensive framework for the management of public lands.

## **MITIGATION MEASURES**

The Approved RMP includes all practical measures to avoid or minimize environmental impacts. Management actions identified in the Approved RMP were developed based on best management practices (Appendix A of the Approved RMP) and agency input, including the Biological Opinion (U.S. Fish and Wildlife Service 2008) (Appendix D of the Approved RMP), to ensure compliance with applicable laws and standards. The Ely Proposed RMP/Final EIS identified five potential mitigation measures in addition to the standard operating procedures and best management practices included in the RMP (Section 4.29 of the Proposed RMP/Final EIS). Three of the five proposed mitigation measures were selected for adoption and included in the Approved Plan and two proposed mitigation measures were not carried forward as they were already addressed more broadly under other management actions included in the Approved Plan. The mitigation measures adopted into the Approved RMP are Proposed Mitigation Measure 1, modified and included under Management Action FM-7; Proposed Mitigation Measure 2, included in Management Action REC-4; and Proposed Mitigation Measure 5, Option 1, included under Management Action LR-24. These approved mitigation measures are consistent with BLM authority. Additional measures to avoid or mitigate environmental impacts associated with future actions may be developed during NEPA analysis for those actions at the planning and project stages.

## **PLAN MONITORING**

The BLM planning regulations (43 Code of Federal Regulations 1610.4-9) require the monitoring of RMPs on a continual basis with a formal evaluation done at periodic intervals. All BLM Nevada land use plans are monitored and formally evaluated at 5-year intervals after the plan is approved. In some cases, formal evaluations may occur more frequently than every 5 years, if appropriate. Monitoring plan decision implementation is an essential component of natural resources management because it provides information on the relative success of RMPs and specific management strategies. Implementation monitoring will be completed annually and will be documented in a tracking log or report, which will be available to the public. Effectiveness monitoring strategies will be developed as allowable uses and management actions are implemented.

Monitoring for each resource program is outlined in the "Management Decisions" section of the Approved Plan. Monitoring also is an integral part of adaptive management and is a key component to achieving the management goals and objectives of the RMP. Tracking the progress of management actions and measuring changes resulting from these activities is important in either determining success or the need for a different management approach. Monitoring results will provide information to determine whether objectives have been met, and whether to continue or modify the management actions. Findings obtained through monitoring, together with research and other new information will provide a basis for adaptive management changes. Within this framework, if monitoring shows land use plan actions or best management practices are not effective, the BLM may modify or adjust management without amending or revising the plan if we are in conformance with the Approved Plan. In those cases where the BLM considers implementing actions that will alter or not conform to the overall direction of the Approved Plan, the BLM will prepare a plan amendment or revision and environmental analysis of appropriate scope.

## PUBLIC INVOLVEMENT

Public participation for this planning effort began with the publication of the Federal Register Notice of Intent (Federal Register Vol. 68 No. 27, pages 6770-6771, Monday, February 10, 2003) to prepare a RMP. With this Notice of Intent, individuals and organizations were invited to submit comments in writing to the BLM and cooperating agencies were invited to participate in the planning process.

Several governmental agencies and tribes agreed to serve as cooperating agencies and had varying levels of involvement in the development of the Draft RMP/EIS. These agencies and tribes continued to be involved through preparation of the Proposed RMP/Final EIS. Cooperating agencies that participated in the development of the Ely RMP/EIS are:

- Great Basin National Park
- Humboldt-Toiyabe National Forest
- Nellis Air Force Base
- Nevada Department of Transportation
- Nevada Department of Wildlife
- Nevada Division of Minerals
- Nevada State Historic Preservation Office
- Lincoln County
- Nye County
- White Pine County
- Duckwater Shoshone Tribe
- Ely Shoshone Tribe
- Moapa Band of Paiutes
- Yomba Shoshone Tribe

Six public scoping meetings were held in March and April 2003. Ninety-three (93) letters were received via mail, fax, e-mail, an on-line web comment form, or handed in during the scoping meetings. These letters from individuals and organizations contained 798 unique comments for consideration in the planning process. As documented in the Scoping Report, issues identified were evaluated for their applicability to be addressed through alternatives.

A Notice of Availability was published in the Federal Register (Vol. 70, No. 145, pages 43902-43903, Friday, July 29, 2005) announcing the availability of the Ely Draft RMP/EIS for public review and comment for a 120-day formal comment period that ended on November 28, 2005. Six public meetings on the Draft RMP/EIS were held in October, 2005. Six hundred and fifty comment letters on the Draft RMP/EIS were received via U.S. mail and email. These included 81 unique letters and 569 form letters. From these letters, 1,667 comments were identified in the set of comment letters received on the Draft RMP/EIS. All public comments were responded to in the Proposed RMP/Final EIS.

A Notice of Availability was published in the Federal Register (Vol. 72 No. 230, pages 67748-67750, Friday, November 30, 2007,) announcing the availability of the Ely Proposed RMP/Final EIS. This began a 30-day protest period that ended December 30, 2007, and a 60-day governor's consistency review in accordance with planning regulations at 43 Code of Federal Regulations Part 1610.3-2(e), which ended on January 29, 2008. Copies of the Proposed Plan were mailed to over 1,200 agencies, organizations, and individuals. The Governor's Office did not identify any inconsistencies between the Proposed RMP/Final EIS and state or local plans, policies, or programs during the 60-day Governor's Consistency Review.

## **Ely District RMP Record of Decision**

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Six protest letters were received by BLM during the 30-day protest period provided of the management actions contained in the Ely Proposed RMP/Final EIS. Protesting parties consisted of:

- Clay Iverson
- Center for Biological Diversity
- Cindy MacDonald
- Western Watersheds Project (submitted two protest letters)
- Craig Downer

Based on previous involvement in the planning process, only two of the protesting parties were determined to have standing as defined in the BLM Land Use Planning Handbook (H 1601-1). Main protest points pertained to the following: management of grazing within the planning area; effects of management actions on threatened and endangered species and species of concern (including wild horses); inadequate analysis of impacts of management actions on global warming, cultural resources, and visual resources; area of critical environmental concern (ACEC) designation and management; management associated with vegetation resources and control of weeds; limited analysis of alternatives; effects of management actions on recreation and off-highway use vehicles; and concern that land disposals were not well defined and did not meet a no net loss criteria. The Director reviewed all valid protests, and letters responding to the protests were signed on June 20, 2008. No changes to the Proposed RMP were made as a result of the Director's review of the protests.

One letter provided by a protesting party determined to not have standing did include a comment determined to be germane to the planning process. This comment pertained to the location and designation of the Hendry's Creek/Rock Animal Corral ACEC. Due to this comment, the BLM State Director re-evaluated the location and need for the proposed ACEC to protect the resources at the Rock Animal Corral Archaeological Site. Based on this re-evaluation, the BLM State Director determined that the area proposed for designation of the Hendry's Creek/Rock Animal Corral ACEC is not necessary to protect the relevant and important values of the historic property, and the Approved RMP has been modified to reflect this determination.

## **Endangered Species Act**

Formal consultation with the U.S. Fish and Wildlife Service was initiated by BLM for the Ely Proposed RMP/Final EIS under Section 7 of the Endangered Species Act of 1973 (as amended). Based on the list of federally listed, proposed, and candidate species and BLM sensitive species addressed in the Proposed RMP/Final EIS and the biological assessment, the U.S. Fish and Wildlife Service has issued a formal Biological Opinion (Appendix D) that includes terms and conditions to minimize impacts to federally listed, proposed, and candidate species, as well as BLM sensitive species.

## **Tribal Participation**

As a federal agency, the BLM is mandated to consult with American Indian tribes concerning the identification of cultural values, religious beliefs, and traditional practices of American Indian people, as well as other possible environmental and social concerns that may be affected by actions on federal lands.

Consultation for the Ely RMP/EIS was initiated with Western Shoshone, Goshute, and Southern Paiute reservations, colonies, organizations, and individuals. The Western Shoshone included the Te-Moak Tribes, Battle Mountain Band, Elko Band, South Fork Band, Wells Band, Duckwater Shoshone Tribe, Ely Shoshone Tribe, Timbisha Shoshone Tribe, Yomba Shoshone Tribe, Duck Valley Sho-Pai Tribes, the Western Shoshone Historic Preservation Society, Nevada Indian Commission, Intertribal Council of Nevada, and Western Shoshone Defense Project. Included for the Goshute were the Goshute Tribe (Ibapah) and Skull Valley Band of Goshute. The Southern Paiute included the Paiute Tribe of Utah, Las Vegas Paiute Tribe, Moapa Paiute Tribe, the Colorado Indian Tribes, the Chemehuevi Tribe, and individuals residing in Eagle Valley and Caliente. Tribal concerns identified through this consultation process were addressed during preparation of the Ely District RMP and are reflected in the Approved RMP to the extent practicable.

## **References**

- Bureau of Land Management (BLM). 2007. Ely Proposed Resource Management Plan/Final Environmental Impact Statement for the Ely District. U.S. Department of the Interior, Bureau of Land Management, Ely Field Office, Ely, Nevada. November 2007.
- U.S. Department of the Interior – BLM. 2005. Draft Resource Management Plan/Environmental Impact Statement for the Ely District. U.S. Department of the Interior, Bureau of Land Management, Ely Field Office, Ely, Nevada. July 2005.
- U.S. Fish and Wildlife Service. 2008. Programmatic Biological Opinion (84320-2008-F-0078), Informal Consultation (84320-2008-I-0079), and Technical Assistance (84320-2008-TA-0080) for the Bureau of Land Management's Ely District Resource Management Plan. Nevada Fish and Wildlife Office, Las Vegas, Nevada. July 2008. 238 p.



### **Managers' Recommendations**

Having considered a full range of alternatives, associated impacts, and public input, I recommend adoption and implementation of the attached Ely District Resource Management Plan.



**John Ruhs**  
District Manager  
Ely District

8/20/08  
Date

### **State Director Approval**

I approve the attached Ely District Resource Management Plan, as recommended. This document meets the requirements for a Record of Decision, as provided in 40 Code of Federal Regulations part 1505.2 and for a resource management plan, as described in 43 Code of Federal Regulations part 1610.0-5(k).



**Ron Wenker**  
Nevada State Director

August 20, 2008  
Date